



PATENT
Customer No. 22,852
Attorney Docket No. 06556.0039

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

John POLK et al.

Application No.: 10/043,493

Filed: January 14, 2002

For: APPARATUS AND METHODS FOR
PROVIDING A PAYMENT SYSTEM
OVER A NETWORK

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) Group Art Unit: 2165

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) Examiner: Not yet assigned.
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Commissioner for Patents
Washington, DC 20231

Sir:

SUPPLEMENTAL NOTICE OF RELATED LITIGATION

In accordance with 37 C.F.R. § 1.56, as clarified by § 2001.06(c) of the Manual of Patent Examining Procedure, Applicants have notified the Examiner that U.S. Patent No. 6,119,107 ("the '107 patent") and U.S. Patent No. 5,946,669 ("the '669 patent") are the subject of a litigation in the United States District Court for the District of Minnesota (Civ. Action No. 02-CV-1321 DWF/SRN) between Plaintiff Pay Child Support Online Inc and Defendant ACS State & Local Solutions, Inc.

In particular, Applicants filed a Notice of Related Litigation on September 20, 2002 with copies of Plaintiff's Complaint and Defendant ACS State & Local Solutions, Inc.'s Answer and Counterclaim. The copy of Plaintiff's Complaint contained an Exhibit F that was unintentionally missing some pages. To correct this, Applicants filed a

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second Notice of Related Litigation on October 11, 2002 with a complete copy of Exhibit F to the Plaintiff's Complaint. In an Information Disclosure Statement filed concurrently herewith, Applicants include copies of Plaintiff's Complaint and Defendant ACS State & Local Solutions, Inc.'s Answer and Counterclaim listed on a PTO form 1449 for the Examiner's express consideration.

By this Supplemental Notice of Related Litigation, Applicants now notify the Examiner of continuing developments in the ongoing litigation. Specifically, Plaintiff (joined by a Counter-Defendant) moved to dismiss Defendant's counterclaims, alleging among other things that the '107 and '669 patents are invalid under 35 U.S.C. § 102 and/or § 103 and unenforceable due to inequitable conduct. Plaintiff's allegations and comments are set forth in Plaintiff's Memorandum in Support of Plaintiff and Counter-Defendant's Motion to Dismiss, which is included in the Information Disclosure Statement filed concurrently herewith.

Defendant responded to these allegations, arguing that no basis exists for dismissing Defendant's counterclaims, including that there was no basis for the allegations of invalidity under 35 U.S.C. § 102 and/or § 103, and that there was no basis for the allegations of unenforceability due to inequitable conduct. Defendant ACS State & Local Solutions, Inc.'s Opposition to the Motion to Dismiss of Pay Child Support Online Inc and Daniel J. King is included in the Information Disclosure Statement filed concurrently herewith.

In a ruling on Plaintiff's and Counter-Defendant's Motion to Dismiss, the District Court denied the motion because, *inter alia*, the alleged invalidity of the '107 and '669 patents is not a fact that may be established for the purposes of a motion to dismiss.

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The court's Memorandum Opinion and Order is included in the Information Disclosure Statement filed concurrently herewith.


Applicants will continue to keep the PTO informed of further developments in this litigation.

If there is any fee due in connection with the filing of this Notice, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: December 11, 2002

By: 
Robert E. Converse, Jr.
Reg. No. 27,432

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SUPPLEMENTAL INFORMATION DISCLOSURE
STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicants bring to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits for the above-referenced application. Copies of the listed documents are attached.

In a Supplemental Notice of Related Litigation filed concurrently herewith, Applicants notify Examiner of continuing developments in a litigation in the United States District Court for the District of Minnesota (Civ. Action No. 02-CV-1321 DWF/SRN) between Plaintiff Pay Child Support Online Inc and Defendant ACS State &

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Local Solutions, Inc. This Information Disclosure Statement includes copies of five pleadings that have been filed in this litigation for the Examiner's consideration.

One of the listed documents, the Complaint Seeking Declaratory Judgement Under Title 35 of US Code, refers to Exhibits C - J (see Complaint, pages 9-10). The Examiner will note that the Information Disclosure Statement filed on September 20, 2002 included Exhibits C-J, although Exhibit F was incomplete as filed. A complete copy of Exhibit F was filed in the Information Disclosure Statement filed on October 11, 2002.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claims in the application and Applicants determine that the cited document do not constitute "prior art" under United States law, Applicants reserve the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

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If there is any fee due in connection with the filing of this Statement, please
charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

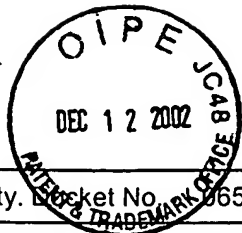
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INFORMATION DISCLOSURE CITATION

OMB No. 0651-0011

#9 12-20 02CW

Atty. Dr. cket No. 06556.0039	Appln. No. 10/043,493
Applicant John POLK et al.	
Filing Date January 14, 2002	Group: 2165

U.S. PATENT DOCUMENTS

Examiner Initial*	Document Number	Issue Date	Name	Class	Sub Class	Filing Date If Appropriate

FOREIGN PATENT DOCUMENTS

Document Number	Publication Date	Country	Class	Sub Class	Translation Yes or No

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

	COMPLAINT SEEKING DECLARATORY JUDGEMENT UNDER TITLE 35 OF US CODE, Civil Action No. 02-CV-1321 DWF/SRN, United States District Court for the District of Minnesota, June 21, 2002 (27 pages) (ATTACHMENT A).
	DEFENDANT AND COUNTER-PLAINTIFF ACS STATE & LOCAL SOLUTIONS, INC.'S ANSWER AND COUNTERCLAIM, Civil Action No. 02-CV-1321 DWF/SRN, United States District Court for the District of Minnesota, July 31, 2002 (112 pages) (ATTACHMENT B).
	MEMORANDUM IN SUPPORT OF PLAINTIFF AND COUNTER-DEFENDANT'S MOTION TO DISMISS, Civil Action No. 02-CV-1321 DWF/SRN, United States District Court for the District of Minnesota, September 16, 2002 (27 pages) (ATTACHMENT C).
	ACS STATE & LOCAL SOLUTIONS, INC.'S OPPOSITION TO THE MOTION TO DISMISS OF PAY CHILD SUPPORT ONLINE INC AND DANIEL J. KING, Civil Action No. 02-CV-1321 DWF/SRN, United States District Court for the District of Minnesota, October 7, 2002 (76 pages) (ATTACHMENT D).
	MEMORANDUM OPINION AND ORDER, Civil Action No. 02-CV-1321 DWF/SRN, United States District Court for the District of Minnesota, December 2, 2002 (8 pages) (ATTACHMENT E).

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Examiner	Date Considered
*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.	
Form PTO 1449	Patent and Trademark Office - U.S. Department of Commerce